

Form No. 3 (Pg. 1)

B 104 (Rev. 2/92)		<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only) <b>04-00165</b>	
<b>PLAINTIFFS</b>  WILFREDO DE JESUS RIVERA SONIA M HERNANDEZ MELENDEZ			<b>DEFENDANTS</b>  GE CAPITAL CORP OF PR		
ATTORNEYS (Firm Name, Address, and Telephone No.) ROBERTO PEREZ OBREGON ESQ PO BOX 9497 BAYAMON PR 00960 8041 (787)787-9883			ATTORNEYS (if Known) WILFREDO SEGARRA MIRANDA ESQ PO BOX 8984 BAYAMON PR 00960 8984		
<b>PARTY</b> (Check one box only)		<input type="checkbox"/> 1 U.S. PLAINTIFF	<input type="checkbox"/> 2 U.S. DEFENDANT	<input checked="" type="checkbox"/> 3 U.S. NOT A PARTY	
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)  VIOLATION OF TITLE 11 U.S.C. §§ 362 AND 524 AND REQUEST FOR DAMAGES					
<b>NATURE OF SUIT</b> (Check the one most appropriate box only.)					
<input checked="" type="checkbox"/> 454 To Recover Money or Property		<input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11, Chap. 12, or Chap. 13 Plan		<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action	
<input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property		<input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. §523		<input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court	
<input type="checkbox"/> 457 To obtain approval for the sale of both the interest of the estate and of a co-owner in property		<input type="checkbox"/> 434 To obtain an injunction or other equitable relief		<input type="checkbox"/> 498 Other (specify)	
<input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727		<input type="checkbox"/> 458 To subordinate any allowed claim or interest except where such subordination is provided in a plan			
<b>ORIGIN OF PROCEEDINGS</b> (Check one box only.)		<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed Proceeding	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another Bankruptcy Court
<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23					
<b>DEMAND</b>		<b>NEAREST THOUSAND</b> \$ 60,000.00		<b>OTHER RELIEF SOUGHT</b> TRANSFER OF VEHICLE TITLE	
<input type="checkbox"/> JURY DEMAND					
<b>BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES</b>					
<b>NAME OF DEBTOR</b> WILFREDO DE JESUS RIVERA, SONIA M HDEZ MLDEZ			<b>BANKRUPTCY CASE NO.</b> 00-00801 (GAC)		
<b>DISTRICT IN WHICH CASE IS PENDING</b> PUERTO RICO		<b>DIVISIONAL OFFICE</b>		<b>NAME OF JUDGE</b> GERARDO A CARLO	
<b>RELATED ADVERSARY PROCEEDING (IF ANY)</b>					
<b>PLAINTIFF</b>		<b>DEFENDANT</b>		<b>ADVERSARY PROCEEDING NO.</b>	
<b>DISTRICT</b>		<b>DIVISIONAL OFFICE</b>		<b>NAME OF JUDGE</b>	
<b>FILING FEE</b> (Check one box only.) <input type="checkbox"/> FEE ATTACHED <input checked="" type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED					
<b>DATE</b> JULY 12, 2004		<b>PRINT NAME</b> ROBERTO PEREZ OBREGON		<b>SIGNATURE OF ATTORNEY (OR PLAINTIFF)</b> <i>Roberto Perez Obregon</i>	

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In re

WILFREDO DE JESUS RIVERA  
SONIA M. HERNANDEZ MELENDEZ

Debtors

WILFREDO DE JESUS RIVERA  
SONIA M. HERNANDEZ MELENDEZ

Plaintiffs

GE CAPITAL CORP OF PR

Defendant

\*\*\*\*\*

Case No. 00-00801 (GAC)

Chapter 13

Adv. Proc. No.

04-00165

RECEIVED AND FILED  
2004 JUL 13 PM 3:51  
CLERK OF THE DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

**SUMMONS IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to file or answer to the complaint which is attached to this summons with the clerk of the bankruptcy court within thirty (30) days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within thirty five (35) days.

Clerk, U.S. Bankruptcy Court  
U.S. Post Office & Courthouse Building  
1<sup>st</sup> Floor, Suite 109, 300 Recinto Sur  
Old San Juan, Puerto Rico 00901

At the same time, you must also serve a copy of the motion or answer upon plaintiff's attorney.

Roberto Pérez Obregón

PO Box 9497

Bayamón, Puerto Rico 00960 8041

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT



Date

JUL 13 2004

CELESTINO MATTA-MENDEZ  
CLERK, U.S. BANKRUPTCY COURT

BY:

**IN RE:**

## Debtors

## CHAPTER 13

ADV. NO. 04-00165

## Plaintiffs

**vs.**

**Defendant**

RECEIVED AND FILED  
JUL 13 2004  
CASHIER 1  
U.S. DISTRICT COURT  
FOR THE DISTRICT OF  
PRINCE GEORGE

1. This complaint is filed by the debtors in the above-captioned chapter 13 case. This Court thus has jurisdiction over this proceeding, which arises in a case under the Bankruptcy Code and concerns property of the debtors, pursuant to 28 U.S.C. § 1334. This is a core proceeding.

**Facts**

2. Debtors filed a voluntary petition under Chapter 13 on January 28<sup>th</sup>, 2000 having listed General Electric Corporation as a secured creditor.
3. That General Electric Corporation's collateral consisted of a conditional sales contract over a 1997 Peterbilt truck tractor model R 293 s/n 1XP5D060XXVN428273.
4. That debtors' modified plan of June 15<sup>th</sup>, 2000 approved by this Court on August 4<sup>th</sup>, 2000 proposed payment in full to General Electric Corporation through the office of the Chapter 13 trustee. (Legal docket #22. )
5. That General Electric Corporation filed its secured claim, claim #9, on May 15<sup>th</sup>, 2000 in the amount of \$33,411.00.
6. That trustee paid said claim in full and debtors received their discharge on December 29<sup>th</sup>, 2003. (Legal docket #33. )
7. That notwithstanding, the case remains open pending trustee's final report.
8. That since the discharge debtors have approached General Electric Corporation on several occasions to have title of the said vehicle transferred to their names to which creditor has refused.
9. That, in addition, in May of 2004 General Electric Corporation unlawfully retained a check in the amount of \$1,196.00 destined to debtors from Royal & Sunalliance Insurance Company pursuant to policy number U-3800008 for repairs previously paid by debtors on the said vehicle.
10. That General Electric Corporation's refusal to transfer title and unlawful retention of the above-stated insurance check constitute a violation of Title 11 U.S.C. §§ 362 and 524.
11. That just as importantly, General Electric Corporation's actions have caused and continue to cause damage to debtors inasmuch as Cooperativa De Transporte De Carga, through which copetitioner Wifredo De Jesús Rivera works requires that its drivers operate vehicles no more than seven years old.

12. That since General Electric Corporation refuses to relinquish title to the vehicle debtors are economically precluded from acquiring a newer model since they cannot use the 1997 Peterbilt truck tractor for trade-in purposes.

**Conclusion**

13. Defendant's refusal to relinquish title of the said vehicle as well as its unlawful appropriation of debtors' insurance check has caused damage to plaintiffs and constitutes willfull violation of the automatic stay of 11 U.S.C. § 362(a) and of the discharge injunction of 11 U.S.C. § 524.
14. That debtors request that this Honorable Court order General Electric Corporation, inasmuch as its claim has been fully satisfied through the trustee, to transfer title of the said Peterbilt truck tractor model R 293 s/n 1XP5D060XXVN428273 to debtors free and clear of any lien; to return to debtors the funds illegally withheld from insurance policy check number U-3800008, i.e., \$1,196.00 at 6% interest; in addition to damages and punitive damages in the amount of \$50,000.00 plus legal fees in the amount of \$10,000.00 pursuant to 11 U.S.C. §§ 362(h) and 524.

**WHEREFORE**, it is respectfully requested that this Honorable Court:

- (1) Order General Electric Corporation, to deliver title of the said Peterbilt truck tractor model R 293 s/n 1XP5D060XXVN428273 to debtors free and clear of liens;
- (2) Order defendant to return to debtors the funds illegally wihtheld from Royal & Sunalliance insurance policy check number U-3800008, i.e., \$1,196.00 at 6% interest;
- (3) Find defendant in contempt of court for violating Title 11 U.S.C. §§ 362 and 524;
- (4) Award plaintiffs damages and punitive damages in the amount of \$50,000.00 plus legal fees in the amount of \$10,000.00 pursuant to 11 U.S.C. §§ 362(h) and 524.

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**I HEREBY CERTIFY** that a true copy of this motion has been sent to Chapter 13 Trustee, Jose R. Carrión Morales, Esq., PO Box 9023884, Old San Juan Station, San Juan, Puerto Rico 00902-3884 and by certified mail to representative for GE Capital Corp. PR., Wilfredo Segarra Miranda, Esq., P.O. Box 8984, Bayamón, Puerto Rico 00960 8984.

In Bayamón, Puerto Rico this 12<sup>th</sup> day of July, 2004.



**ROBERTO PEREZ OBREGON**  
**PO BOX 9497**  
**BAYAMON, PR 00960-8041**  
**TEL: 787-787-9883**